REMARKS

This Amendment is submitted in reply to the final Office Action mailed on October 27, 2005. A Request for Continued Examination ("RCE") and petition for a two month extension of time is submitted herewith. A check in the amount of $1,240 is submitted herewith to cover the cost of the RCE and petition for extension of time. The Commissioner is authorized to charge any additional fees which may be required, or to credit any overpayment to Deposit Account No. 02-1818. If such a withdrawal is made, please indicate the Attorney Docket No. 112843-35 on the account statement.

Claims 6 and 23-24 are pending in this application. Claims 1-5 and 7-21 were previously withdrawn. Claims 22 was previously canceled. In the Office Action, the specification is objected to, Claims 6 and 23-24 are rejected under 35 U.S.C. §112, second paragraph, Claims 6 and 23-24 are rejected under 35 U.S.C. §112, second paragraph, Claims 6 and 23-24 are rejected under 35 U.S.C. §103. In response the specification and Claim 6 have been amended. This amendment does not add new matter. In view of the amendment and/or for the reasons set forth below, Applicants respectfully submit that the rejections should be withdrawn.

Applicants appreciate the courtesies extended by Examiner Marx during an interview on January 25, 2006 with Applicants' representative. The comments appearing herein are substantially in accord with those presented and discussed during the interview.

In the Office Action, the specification (e.g. the title) has been objected to. In response, Applicants have amended the title to address the informalities cited by the Patent Office. Accordingly, Applicants respectfully request that the objection to the specification be withdrawn.

In the Office Action, Claims 6 and 23-24 are rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description and enablement requirements. Specifically, the Patent Office alleges that "increasing insulin sensitivity in a mammal comprising selectively increasing production of propionate in a gastro-intestinal tract of the mammal by orally administering a nutritional composition comprising dextran having a molecular weight above about 500,000 wherein dextran is administered in an amount from about 10g per day to about 15g per day" of Claim 6 is considered to be new matter. In response, Applicants have amended Claim 6 to recite, in part, a method for increasing production of propionate in a gastro-intestinal tract of a mammal by orally administering a nutritional

composition comprising dextran having a molecular weight of about 2,000,000. The amendment is supported in the specification, for example, at pages 8-9 and Example 3. Based on at least these noted reasons, Applicants believe that Claims 6 and 23-24 fully comply with 35 U.S.C. §112, first paragraph.

In the Office Action, Claims 6 and 23-24 are rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Specifically, the Patent Office alleges that the phrase "increasing the insulin sensitivity" in a mammal by "selectively increasing production of propionate" in a gastrointestinal tract of the mammal is confusing. In response, Claim 6 has been amended as discussed previously to address the rejection cited by the Patent Office. Based on at least these noted reasons, Applicants believe that Claims 6 and 23-24 fully comply with 35 U.S.C. §112, second paragraph.

Accordingly, Applicants respectfully request that the rejections of Claims 6 and 23-24 under 35 U.S.C. §112 be withdrawn.

In the Office Action, Claims 6 and 23-24 are rejected under 35 U.S.C. §103 as being unpatentable over EP 0153013 to Alsop et al. ("*Alsop*") in view of EP 382355 to Mitsuhashi et al. ("*Mitsuhashi*"). Applicants believe this rejection is improper and respectfully traverse it for at least the reasons set forth below.

Amended independent Claim 6 recites, in part, a method for increasing production of propionate in a gastro-intestinal tract of a mammal by orally administering a nutritional composition comprising dextran having a molecular weight of about 2,000,000 wherein dextran is administered in an amount from about 10 g per day to about 15 g per day. Applicants respectfully submit that there is no suggestion or motivation to combine the cited references to obtain the present claims, and even if combinable, all of the claimed elements are not taught or suggested by the cited references.

Applicants respectfully submit that there is no suggestion or motivation to combine the cited references to obtain the present claims. For example, *Alsop* is directed to a liquid composition used as a bulking agent. See, *Alsop*, page 2, lines 3-14. On the other hand, *Mitsuhashi* is specifically directed to *Bifdobacteria*, which bacteria according to *Mitsuhashi* produce organic acids, such as acetic acid and lactic acid, thus resulting in a decrease of the

intestinal pH. See, *Mitsuhashi*, page 2, lines 12-13. Nowhere do *Alsop* or *Mitsuhashi* relate to the production of propionic acid, let alone selectively increasing amounts thereof as claimed. Further, *Alsop* and *Mitsuhashi* are each directed to treating different conditions. Consequently, one having ordinary skill in the art would not be motivated to combine *Alsop* and *Mitsuhashi* to arrive at the present claims.

Applicants also respectfully submit that, even if combinable, the cited references do not disclose or suggest all of the claimed elements. For example, *Alsop* fails to disclose or suggest increasing production of propionate in a gastro-intestinal tract of a mammal by orally administering a composition comprising dextran having a molecular weight of about 2,000,000 or the administration of that dextran in an amount from about 10 g per day to about 15 g per day as required by Claim 6. Instead, *Alsop* is mainly directed dextran with an average molecular weight of 500,000 or less and at dosages of 50 grams per day. Moreover, *Alsop* appears to specify that a dextran average molecular weight of less than 1,000,000 is preferred. See, *Alsop*, page 4, lines 10-14.

Similarly, *Mitsuhashi* also fails to disclose or suggest increasing production of propionate in a gastro-intestinal tract of a mammal by orally administering a composition comprising dextran having a molecular weight of about 2,000,000 or the administration of that dextran in an amount from about 10 g per day to about 15 g per day as required by the present claims. Moreover, *Mitsuhashi* fails to disclose or suggest that an enteral administration of dextran in specified amounts as claimed can even result in a selectively increased amount of propionic acid in the gastro-intestinal tract.

For the reasons discussed above, the combination of *Alsop* in view of *Mitsuhashi* is improper. Moreover, even if combinable, *Alsop* and *Mitsuhashi* do not teach, suggest, or even disclose all of the elements of the present claims, and thus, fail to render the claimed subject matter obvious for at least these reasons.

Accordingly, Applicants respectfully request that the obviousness rejection with respect to Claims 6 and 23-24 be reconsidered and the rejection be withdrawn.

For the foregoing reasons, Applicants respectfully request reconsideration of the above-identified patent application and earnestly solicit an early allowance of same.

Respectfully submitted,

BY _____

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